

**APPENDIX A**  
**CHAPTER 1.0**

This appendix describes in greater detail the information presented in Chapter 1.0.

**Table of Contents**

**Supporting Tables**

None

**Supporting Figures**

None

**Supporting Analyses**

Section A.1	Federal, State, and Local Policies
A.1.1	Federal Policies
A.1.2	State Policies
A.1.3	City and County Policies



## **A.1 FEDERAL, STATE, AND LOCAL POLICIES**

### **A.1.1 Federal Policies**

#### ***National Environmental Policy Act***

The National Environmental Policy Act (NEPA) establishes policy, sets goals, and provides a way for carrying out and implementing national environmental policies. One of the primary purposes of NEPA is to establish a process to ensure that federal officials and decision-makers are informed of the environmental consequences of their actions, prior to the commencement of such actions.

#### ***National Historic Preservation Act – Section 106***

The National Historic Preservation Act of 1966 (NHPA) creates a framework of federal involvement in issues of historic preservation. Section 106 of the NHPA requires that a federal agency, in consultation with the State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation, consider the impact that the action may have on historic properties that are included on, or eligible for inclusion on, the National Register of Historic Places.

Other primary legislation pertinent to cultural resources analyses are the Archaeological Resources Protection Act; the American Indian Religious Freedom Act; the Native American Graves Protection and Repatriation Act; and Public Law 74-292 (the National Natural Landmarks Program), under which paleontological resources are addressed.

#### ***Clean Air Act***

The 1990 Clean Air Act (CAA) establishes air pollution control measures to ensure that basic health and environmental protections related to air quality are met throughout the country. This is achieved in part by creation of the National Ambient Air Quality Standards (NAAQS). The CAA is implemented by individual State Implementation Plans (SIPs) and is enforced by the United States Environmental Protection Agency (USEPA).

#### ***Clean Water Act***

The goal of the Clean Water Act of 1972 (CWA), as amended, is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. The CWA establishes a variety of standards and programs administered by USEPA and delegated to state and federal authorities for implementation and enforcement.

Section 401 of the CWA addresses water quality certification and authorizes review, conditioning, and approval or denial of federal permits or licenses that may result in discharges to waters of the United States. Under Section 401, discharges to waters of the United States must be certified by the affected state as complying with applicable state water quality standards.

1 Section 402 of the CWA requires that all point source discharges of pollutants to waters of the  
2 United States be authorized under a National Pollutant Discharge Elimination System (NPDES)  
3 permit. NPDES permits issued for point sources must contain provisions for the discharge to  
4 meet water quality-based provisions of Section 301 of the CWA. This means that discharges  
5 may not contain pollutants or characteristics in levels that would cause the receiving water body  
6 to fail to meet a water quality standard set by the state or the USEPA for that water body.

7  
8 Section 404 of the CWA authorizes the USACE to regulate discharge, dredging, and fill  
9 materials occurring in waters of the United States. Section 404 is administered jointly by the  
10 USACE and USEPA: the USACE is authorized to issue or deny permits for fill activities into  
11 waters of the United States, while the USEPA develops guidelines for the USACE to use in  
12 assessing environmental impacts of proposed projects (Section 404(b)(1) of the CWA).

### 13 14 *Rivers and Harbors Act*

15  
16 The Rivers and Harbors Act of 1819 was established to protect navigable waters and maintain  
17 interstate commerce. Section 10 of the Rivers and Harbors Act prohibits the creation of  
18 obstructions to navigation in waters of the United States and authorizes the USACE to regulate  
19 the construction of structures in, over, or under navigable waters, excavation of material from  
20 navigable waters, or deposition of material into navigable waters, including dredging and filling  
21 activities.

### 22 23 *Coastal Zone Management Act*

24  
25 The Coastal Zone Management Act of 1972 (CZMA) provides incentives for coastal states to  
26 develop and implement coastal zone management programs. The law requires that federal  
27 agencies be consistent to the maximum extent practicable with the enforceable policies of state  
28 coastal zone management programs when conducting or supporting activities that affect the  
29 coastal zone. Any applicant for a federal permit must obtain certification that the proposed  
30 permit complies with the state's approved program.

### 31 32 *Endangered Species Act*

33  
34 The purpose of the Endangered Species Act (ESA) is to ensure that federal agencies and  
35 departments protect and conserve federally listed endangered and threatened species. Section 7  
36 of the ESA requires that federal agencies consult with the USFWS and, as appropriate, the  
37 National Marine Fisheries Service (NMFS), to ensure that any actions proposed, funded,  
38 regulated, or authorized by the agencies are not likely to jeopardize the continued existence of  
39 any federally listed endangered or threatened species or result in the destruction of or substantial  
40 damage to critical habitat for the species. Pursuant to the ESA, if it is likely that an endangered  
41 species or a critical habitat will be affected by a proposed action, a biological assessment is  
42 performed.

1 *Migratory Bird Treaty Act*

2  
3 The Migratory Bird Treaty Act (MBTA) and its implementing regulations make it unlawful for  
4 any persons to take (i.e., pursue, hunt, shoot, wound, trap, capture, or collect) any migratory bird  
5 without first receiving a permit to do so. The USFWS is responsible for issuing take permits and  
6 for enforcing the Act and its implementing regulations.  
7

8 *Federal Water Project Recreation Act*

9  
10 The Federal Water Project Recreation Act (FWPRA) requires that recreation and fish and  
11 wildlife enhancement are given full consideration in federal water development projects. The  
12 FWPRA authorizes the use of federal water project funds for land acquisition in order to  
13 establish refuges for migratory waterfowl and authorizes the Secretary of the Interior to provide  
14 facilities for outdoor recreation and fish and wildlife at all reservoirs under the Secretary's  
15 control, except those within national wildlife refuges.  
16

17 *Fish and Wildlife Coordination Act*

18  
19 The Fish and Wildlife Coordination Act (FWCA), as amended in 1964, was enacted to protect  
20 fish and wildlife when federal actions result in the control or modification of a natural stream or  
21 body of water. The FWCA requires federal agencies, in consultation with the USFWS and  
22 NMFS, as appropriate, to take into consideration the effect that water-related projects would have  
23 on fish and wildlife resources, take action to prevent loss or damage to these resources, and  
24 provide for development and improvement of these resources.  
25

26 *The Magnuson-Stevens Fishery Conservation and Management Act*

27  
28 The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) requires federal  
29 agencies to consult with the National Marine Fisheries Service (NMFS) regarding any federal  
30 action that may adversely affect Essential Fish Habitat (EFH) for all fisheries that are federally  
31 managed under the MSFCMA. The MSFCMA mandates that a federal action agency must  
32 respond in writing to EFH conservation recommendations from NMFS and fishery management  
33 councils within a given time period.  
34

35 *The Resource Conservation and Recovery Act*

36  
37 The Resource Conservation and Recovery Act (RCRA), enacted in 1976, governs the  
38 management of solid and hazardous waste and underground storage tanks (USTs). Under  
39 Subtitle C of RCRA, the USEPA establishes procedures for the identification of hazardous waste  
40 and safety standards for facilities that transport, treat, store, or dispose of hazardous wastes.  
41 Subtitle C also contains provisions for the cleanup of contaminated groundwater and soil.  
42

43 Subtitle D of RCRA primarily governs non-hazardous household, commercial, and industrial  
44 solid waste but may also include some hazardous materials associated with households or small  
45 quantity generators. Under Subtitle D, the USEPA establishes minimum technical criteria for the

1 design and operation of municipal solid waste landfills and recommends approaches for waste  
2 management and reduction.

3  
4 RCRA Subtitle I regulates underground tanks containing petroleum or other hazardous  
5 substances by establishing provisions for tank design, construction, and operation, as well as  
6 clean-up and tank closure.

7  
8 The Hazardous Waste Division (HWD), a sub-unit of MDEQ, oversees the assessment and  
9 remediation of sites where hazardous or toxic substances have been released into the  
10 environment. HWD also supports the Environmental Permits Division and Environmental  
11 Compliance and Enforcement Division in regulating the management of hazardous waste under  
12 RCRA.

### 13 14 *Federal Safe Drinking Water Act*

15  
16 Under the provisions of the Safe Drinking Water Act (SDWA), the USEPA establishes standards  
17 to protect the quality of drinking water in the United States. These regulations affect all waters  
18 designed for drinking use, whether from above ground or underground sources. The federal act  
19 also requires compliance with health standards and authorizes state governments to regulate  
20 public water system operators.

21  
22 The Mississippi Department of Health (MSDH) certifies the operator of each community public  
23 water supply. The Division of Water Supply, a sub-unit of the MSDH, regulates the engineering  
24 design, construction, operation, and maintenance of the state's 1,586 public water supplies and  
25 enforces the water quality standards of the Federal and Mississippi Safe Drinking Water Acts.

### 26 27 *Executive Order 11988, Floodplain Management*

28  
29 Executive Order 11988, Floodplain Management (May 24, 1977), requires federal agencies to  
30 take action to reduce the risk of flood loss; to minimize the impacts of floods on human safety,  
31 health, and welfare; and to restore and preserve the national and beneficial values served by  
32 floodplains in carrying out their responsibilities for managing and disposing of federal lands.  
33 Before taking an action, an agency determines whether the proposed action would occur in a  
34 floodplain; if so, alternatives to avoid adverse effects on incompatible development in  
35 floodplains are to be considered.

### 36 37 *Executive Order 11990, Protection of Wetlands*

38  
39 Executive Order 11990, Protection of Wetlands (May 24, 1977), requires federal agencies to take  
40 action to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance  
41 the natural and beneficial values of wetlands in carrying out the agencies' responsibilities for  
42 managing and disposing of federal lands and facilities. For any proposal for lease, easement,  
43 right-of-way, or disposal to nonfederal public or private parties, the federal agency is to reference  
44 in the conveyance document those uses that are restricted under federal, state, or local wetlands  
45 regulations and to attach other appropriate restrictions to the uses of properties by the grantee or

1 purchaser and any successor, except where prohibited by law, or withhold such properties from  
2 disposal.

3  
4 *Executive Order 12088, Federal Compliance with Pollution Control Standards*

5  
6 Executive Order 12088, Federal Compliance with Pollution Control Standards (October 13,  
7 1978), provides that federal agencies are to comply with all federal, state, and local  
8 environmental requirements.

9  
10 *Executive Order 12898, Federal Actions to Address Environmental Justice in Minority*  
11 *Populations and Low-Income Populations*

12  
13 Executive Order 12898, Federal Actions to Address Environmental Justice in Minority  
14 Populations and Low-Income Populations (February 11, 1994), requires that federal agencies  
15 conduct their programs, policies, and activities that substantially affect human health or the  
16 environment in a manner that ensures that such programs, policies, and activities do not have the  
17 effect of excluding persons (including populations) from participation in, denying persons  
18 (including populations) the benefits of, or subjecting persons (including populations) to  
19 discrimination under such programs, policies, and activities because of their race, color, or  
20 national origin.

21  
22 On February 11, 1994 the President also issued a memorandum for heads of all departments and  
23 agencies, directing that USEPA, whenever reviewing environmental effects of proposed actions  
24 pursuant to its authority under Section 309 of the CAA, ensure that the involved agency fully  
25 analyze environmental effects on minority communities and low-income communities, including  
26 human health, social, and economic effects. The essential purpose of Executive Order 12898 is  
27 to ensure the fair treatment and meaningful involvement of all people regardless of race, color,  
28 national origin, or income with respect to the development, implementation, and enforcement of  
29 environmental laws, regulations, and policies. Fair treatment means that no groups of people,  
30 including racial, ethnic, or socioeconomic groups, should bear a disproportionate share of the  
31 negative environmental consequences resulting from industrial, municipal, and commercial  
32 operations or the execution of federal, state, local, and tribal programs and policies.

33  
34 *Executive Order 1045, Protection of Children from Environmental Health Risks and Safety Risks*

35  
36 Executive Order 131045, Protection of Children from Environmental Health Risks and Safety  
37 Risks (April 21, 1997), recognizes that a growing body of scientific knowledge demonstrates that  
38 children may suffer disproportionately from environmental health risks and safety risks. These  
39 risks arise because children's bodily systems are not fully developed; because children eat, drink,  
40 and breathe more in proportion to their body weight; because their size and weight may diminish  
41 protection from standard safety features; and because their behavior patterns may make them  
42 more susceptible to accidents. Based on these factors, the President directed each federal agency  
43 to make it a high priority to identify and assess environmental health risks and safety risks that  
44 may disproportionately affect children. The President also directed each federal agency to ensure

1 that its policies, programs, activities, and standards address disproportionate risks to children that  
2 result from environmental health risks for safety risks.

### 3 4 *A.1.2 State Policies*

#### 5 6 *The Mississippi Gaming Control Act*

7  
8 The Mississippi Gaming Control Act of 1990 declared it the policy of the State of Mississippi  
9 that all establishments where gambling games are conducted or operated must be licensed and  
10 controlled so as to better protect the public health, safety, morals, and good order and welfare of  
11 its inhabitants.

#### 12 13 *Mississippi Coastal Wetlands Protection Act*

14  
15 The Mississippi Coastal Wetlands Protection Act (MISS. CODE ANN. Section 49-27-1) declares  
16 that it is the public policy of the state to favor the preservation of the natural state of the coastal  
17 wetlands and their ecosystems and to prevent the destruction of them, except where a specific  
18 alteration of specific coastal wetlands would serve a higher public interest in compliance with the  
19 public purposes of the public trust in which coastal wetlands are held.

20  
21 The Mississippi Coastal Wetlands Protection Act prohibits those who seek to develop in coastal  
22 Mississippi from doing so without first obtaining a permit consistent with the Coastal Wetlands  
23 Use Plan.

#### 24 25 *Mississippi Coastal Program*

26  
27 In recognition of the Coastal Zone Management Act of 1972, as amended, the Mississippi  
28 Commission on Marine Resources is directed to prepare and implement a coastal program that  
29 establishes guidelines and procedures to manage Mississippi coastal resources. MDMR is  
30 responsible for reviewing and coordinating any decisions affecting the coastal areas so that all  
31 state agencies and other interested parties will have the opportunity to participate in such  
32 decisions (MISS. CODE ANN. Section 57-15-6).

#### 33 34 *The Tidelands Act of 1989*

35  
36 The Tidelands Act of 1989 (MISS. CODE ANN. Section 29-15) declares that it is the public  
37 policy of the state to favor the preservation of the natural state of the public trust tidelands and  
38 their ecosystems and to prevent the despoliation and destruction of them, except where a specific  
39 alteration of specific public trust tidelands would serve a higher public interest in compliance  
40 with the public purposes of the public trust in which such tidelands are held.



1    **A.1.3   City and County Policies**

2  
3    **City of Biloxi Zoning Ordinance**

4  
5    The intent of the City of Biloxi Zoning Ordinance is to implement the goals and objectives of the  
6    various elements of the *City of Biloxi Vision 2020 Comprehensive Plan*. The City of Biloxi  
7    Zoning Ordinance identifies the permitted uses, design parameters, and requirements for land  
8    parcels within the City of Biloxi. The City of Biloxi, Department of Community and Economic  
9    Development, Zoning and Code Enforcement Office is responsible for enforcing and regulating  
10   the Zoning Ordinance.

11  
12   **Harrison County Sand Beach Plan**

13  
14   The *Harrison County Sand Beach Plan* is a long-range plan for the orderly growth, development,  
15   and conservation/preservation of the Sand Beach and related areas for future benefit of the  
16   general public. The *Harrison County Sand Beach Plan* identifies suitable beachfront  
17   development for Harrison County.

